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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/884,652	06/19/2001	Brent D. Emerson	DSCK-1223-C1	3487

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EXAMINER

HUNTER, ALVIN A

ART UNIT	PAPER NUMBER
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3711

DATE MAILED: 01/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/884,652

Applicant(s)

EMERSON ET AL.

Examiner

Alvin A. Hunter

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 August 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-17 is/are allowed.
- 6) ☒ Claim(s) 18-20 and 24-29 is/are rejected.
- 7) ☒ Claim(s) 21-23 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 6/14/05
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 18 and 24-29 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sullivan (USPN 5120791) in view of Shaw (USPN 4142727) further in view of Molitor (USPN 4726590).

Regarding claim 18, Sullivan et al. discloses a golf ball comprising a core having a diameter of 1.4 to 1.6 inches and a cover disposed over the core made of a blend of polymer comprising a first polymer having a melt index of about 2 to 10 grams/10min., a flexural modulus of 60,000 to 80,000 PSI, a shore D hardness of about 60 to 70, and a second polymer comprising a n-butyl acrylate copolymer (See the Entire Document). Sullivan does not disclose the golf ball having a dimples arrangement. Shaw et al. discloses a plurality of dimples arranged in a dodecahedron pattern comprising twelve pentagons (10) subdivided by 10 great circles (15) free of dimples (3) that form 60 triangles (See Figure 3). One having ordinary skill in the art would have found it obvious to combine the dimple configuration of Shaw et al. to the cover of Sullivan in order to obtain a golf ball having optimum aerodynamic properties and flight performance. Molitor discloses golf ball core having a weight of 36.4 to 40.8 g and a PGA

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compression of 51 (See Table 2). One having ordinary skill in the art would have found it obvious to combine a core having the above weight, as taught by Molitor, into that of Sullivan, in order to increase the rebounding characteristics of the golf ball.

Regarding claim 24, 28, and 29, Shaw discloses having 360 dimples. Sullivan in view of Shaw et al. does not disclose the weight of the core. Molitor discloses golf ball core having a weight of 36.4 to 40.8 g and a PGA compression of 51 (See Table 2). One having ordinary skill in the art would have found it obvious to combine a core having the above weight, as taught by Molitor, into that of Sullivan, in order to increase the rebounding characteristics of the golf ball. Also see the above regarding claim 18.

Regarding claim 25, Shaw et al. discloses 10 great circles free of dimples (See Figures and Column 4).

Claims 19, 20, 26 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over the prior art applied to claims 24 above, in view of Shaw (USPN 4877252).

In regards to claims 19 and 26, Shaw '252 discloses the dimples arranged to coincide with a plurality of rows, wherein the rows further subdivide the triangles and the rows comprising of a first row wherein the first row is adjacent to the apex of the triangle, a second row adjacent to the first row, and a third row adjacent to the second row wherein the second row is between the first and third row (See Figures 3 and 4). One having ordinary skill in the art would have found it obvious to modify the dimples of Sullivan in view of Shaw et al. 727 and Molitor in the manner above, as taught by Shaw '252, in order to enhance to flight distance of the golf ball.

In regards to claims 20 and 27, Shaw '252 'discloses the dimples comprising a first dimples arranged to coincide with the first row, a second dimple arranged to coincide with the second row and third row, and a third dimple arranged to coincide with the third row.

Allowable Subject Matter

Claims 1-17 are allowed.

Claims 21-23 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

Applicant's arguments with respect to claims 18-29 have been considered but are moot in view of the new ground(s) of rejection.

Despite the arguments being moot, Applicant still has not show any evidence as to why 19% performs different than that of Cardorniga et al. Cardorniga et al. still show a melt index, shore D hardness and flexural modulus within the same range as that of the claimed polymer of the applicant. Applicant merely argues that the polymers are different because of stiffness. One skilled in the art would already knows that the higher the acid content, the higher the stiffness. But it is not shown that 1% difference results in any unexpected results from that of Cardorniga et al. Applicant is requested to provide evidence showing such acid content would result in unexpected results in order to avoid estoppel. Furthermore, Cardorniga et al. was not applied via hindsight. The

examiner cited a case regarding the closeness of ranges (Titanium alloy case law). The case law clearly set forth that value that are as close as those involving the applicant's and Cardorniga should provide evidence showing the value attributing to an unexpected result. The composition of Cardorniga et al. discloses a melt index, Shore D hardness, and flexural modulus encompassing the range of those claimed by the applicant. The examiner believes that there is no difference based on the evidence already set forth during the prosecution.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alvin A. Hunter whose telephone number is (571) 272-4411. The examiner can normally be reached on Monday through Friday from 7:30AM to 4:00PM Eastern Time.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene Kim, can be reached on 57-272-4463. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


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Alvin A. Hunter, Jr.



EUGENE KIM
SUPERVISORY PATENT EXAMINER

